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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,948	12/28/2001	Thomas A. Gordon	P48-1303-1	9367

7590 07/12/2004

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EXAMINER
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MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/034,948

Applicant(s)

GORDON, THOMAS A.

Examiner

Susanna M. Diaz

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-52 and 57-68 is/are pending in the application.
- 4a) Of the above claim(s) 62-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-52 and 57-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Final Office action is responsive to Applicant's amendment filed May 26, 2004.

Claims 1, 8, 9, 15-18, 25, 57, and 60 have been amended.

Claims 3, 53-56, and 61 have been cancelled.

Claims 62-68 stand as withdrawn.

Claims 1, 2, 4-52, and 57-60 are presented for examination.

2. The previously pending rejections under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, are withdrawn in response to Applicant's claim amendments.

### ***Response to Arguments***

3. Applicant's arguments filed May 26, 2004 have been fully considered but they are not persuasive.

Applicant argues:

...There is no provision in Goldstein for a third party to access the customer's personal file describing the project.

...It is quite one thing to initiate and send an e-mail to a design consultant with information, as opposed to providing access to a personal file for a design consultant to access the personal file over the world wide web at his or her own volition... (Page 16 of Applicant's response)

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a third party accessing the customer's personal file describing the project over the

world wide web at his/her volition) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Instead, the claimed invention recites these features as two separate limitations: "means for generating a personal file including project data for a customer, said file being at a dedicated website and accessible through a connection to the World Wide Web" and "means for allowing said customer to allow access to said personal file by a user other than said customer." The "means for generating a personal file including project data for a customer, said file being at a dedicated website and accessible through a connection to the World Wide Web" corresponds to the customer's ability to access his/her wallpaper file that has been stored in the database (§§ 19, 27-30). The recited "means for allowing said customer to allow access to said personal file by a user other than said customer" does not require that the third party actively obtain the personal file via the World Wide Web. For example, Goldstein's customer accesses the personal file via the World Wide Web and then sends the personal file to a design consultant via electronic mail, thereby indicative of the fact that the third party is ultimately given access to a personal file by the customer. As a matter of fact, in light of the fact that Goldstein's communications are conducted via the Internet (§ 19) and the personal file may be sent to a design consultant from the customer via electronic mail (§ 37), it is understood that the electronic mail is sent via the Internet. Effectively, the design consultant is provided access to the personal file via the Internet in the form of an e-mailed file.

Applicant argues that Plaskoff does not teach various limitations recited in claims 20 and 21; however, Applicant does not provide any support for these assertions. The Examiner maintains her position, as presented in the art rejection.

Regarding claims 27, 28, 30, and 31, Applicant argues that "the help modules suggested by Heisler do not answer the type of questions required by applicant in order to manage a project carried out by third parties as opposed by self-completion of the project. For example, the customer in the applicant's invention is obtaining samples of commercial products, not custom printed wallpaper or instructions on how to hang wallpaper. The applicant is managing the development project rather than doing it." (Page 19 of Applicant's response) Claims 27, 28, 30, and 31 do not specify that a customer is managing a project instead of actually doing the project him/herself. These claims are very broad in nature and could refer to any instruction of any sort that is related to a home improvement project, such as hanging wallpaper. Applicant is reading too many limitations into the claimed invention.

Regarding claims 32-34, 37-40, 42, 44, 45, and 59, Applicant argues that Fenton does not teach that the recited features are "furnished over the Internet with means for allowing the customer to allow access to a personal file of project data by a user other than the customer." (Page 19 of Applicant's response) This argument was addressed above; therefore, the same response applies.

Regarding claims 46-52 and 58, Applicant argues that Herz's "system depends upon a history of past purchases and is totally inappropriate in the applicant's case where a single current construction project is being managed." (Page 20 of Applicant's

response) Again, Applicant is reading too many limitations into the claims. Claims 46-52 and 58 do not limit the collection of customer viewing behavior to a single current construction project. Even if they did, Herz teaches enough of the concept of profiling a user and targeting advertisements accordingly that one of ordinary skill in the art at the time of Applicant's invention would have indeed found it obvious and been motivated to perform the steps recited in claims 46-52 and 58 as part of Goldstein's invention for the reasons presented in the art rejection.

In conclusion, Applicant's arguments are not persuasive.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 5-11, 15-18, 23, 25, 29, 35, 36, 41, and 57 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Goldstein (US 2002/0069078).

Goldstein discloses a system for managing a development project, said system comprising:

[Claim 1] means for generating a personal file including project data for a customer, said file being at a dedicated website and accessible through a connection to the World Wide Web (¶¶ 19, 29, 30);

at least one database having product data (¶¶ 29, 30);

means for allowing said customer to select at least one product from at least one of said database (¶¶ 29, 30);

means for viewing said at least one selected product (¶ 33); and

means for allowing said customer to allow access to said personal file by a user other than said customer (¶¶ 30, 37);

[Claim 2] means for providing repeated access to said customer to said personal file (¶ 30);

[Claim 5] wherein said means for viewing is a printing unit allowing said customer to print at least one selected graphic thereon (¶ 38);

[Claim 6] wherein said printing unit prints proofs based on customer selection (¶ 38);

[Claim 7] wherein said proofs are samples of wallcovering (¶ 38);

[Claim 8] wherein said proofs are wallcovering trim or border to be retained as such (¶ 28);

[Claim 9] wherein said proofs are samples of wallcovering trim or border to be used as a sample (¶¶ 28, 38);

[Claim 10] wherein said proofs are printed on a large sheet material for customer to apply to a wall or floor for evaluation in a home setting (¶ 38);

[Claim 11] wherein said proofs are printed on self-adhesive material to be applied to a wall or floor for evaluation in a home setting (¶ 38);

[Claim 15] wherein said means for viewing is a monitor unit allowing said customer to view at least one selected product thereon (¶ 33);

[Claim 16] wherein said means for viewing is a printing unit for printing said selected product on material with adhesive properties (¶ 38);

[Claim 17] wherein said means for viewing is a printing unit for printing said selected product for permanent application on material with adhesive properties (¶ 38);

[Claim 18] at least one application module allowing said customer to manipulate said product data (¶¶ 29, 30);

[Claim 23] wherein said application module provides a coordination algorithm for tracking selections made by said customer (¶¶ 29, 30 -- Each of the customer's wallpaper selections is stored in a database);

[Claim 25] at least one interactive module allowing said customer to manipulate said product data (¶¶ 29, 30);

[Claim 29] means for generating delivery instructions for said product selected by said customer (¶ 58 -- By "facilitating...delivery of custom wallpaper," some instruction regarding delivery is being provided, e.g., the instruction to deliver x wallpaper);

[Claim 35] wherein said database includes a plurality of product choices (¶¶ 29, 30);

[Claim 36] wherein said database includes a plurality of paint choices (¶ 32);

[Claim 41] wherein said database includes a plurality of wallcovering choices (¶¶ 28, 38).



Goldstein discloses a kiosk system for selecting a product in a store, said kiosk system comprising:

[Claim 57] means for generating a personal file including project data for a customer, said file being at a dedicated website and accessible through a connection to the World Wide Web (¶¶ 19, 29, 30);

at least one database having product data regarding various products (¶¶ 29, 30);

means for allowing for the selection of at least one product from at least one of said database (¶¶ 30, 33, 38);

means for viewing said at least one product (¶ 33); and

means for allowing said customer to allow access to said personal file by a user other than said customer (¶¶ 30, 37).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (US 2002/0069078), as applied to claim 1 above, in view of Rapp et al. (US 2002/0116232).

[Claim 4] Goldstein discloses that a customer may grant a design consultant access to a file containing a selected wallpaper design so that the customer may quickly and conveniently seek further design guidance (¶ 37). Goldstein does not expressly teach that the customer can access the schedule of others, such as a design consultant. However, Official Notice is taken that it is old and well-known in the art for a customer to schedule a consultation appointment with a design consultant in order to provide an informative forum for design advice. Furthermore, Rapp discloses an Internet-based system through which a customer may view a vendor's schedule and actually schedule an appointment based on the vendor's availability (abstract; ¶¶ 4, 5). Rapp's invention provides the benefit of 24-hour scheduling, which not only gives customers added convenience, but also prevents vendors from losing customers who are frustrated with the difficulty of scheduling appointments during busy and limited telephone call-in times (¶ 3). Both Goldstein and Rapp provide customers and vendors with a forum for consultation; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Goldstein's consultation feature to also allow a customer to access schedules of a user other than said customer (e.g., a design consultant) in order to reap the benefit of 24-hour scheduling, which not only gives customers added convenience, but also prevents vendors from losing customers who are frustrated with the difficulty of scheduling appointment during busy and limited telephone call-in times (as taught by Rapp).

[Claim 60] Claim 60 recites limitations already addressed by the rejection of claims 1-4 above; therefore, the same rejection applies.

8. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (US 2002/0069078), as applied to claims 5 and 6 above.

[Claim 12] Goldstein stores a file containing a wallpaper selection for future reference and prints a wallpaper sample (¶¶ 29, 30, 38); however, Goldstein does not expressly teach the printing of an indicia including information regarding said proof for future reference and reorder. Official Notice is taken that it is old and well-known in the art to write a reference or reorder indicia, such as a name or number, on the back of a proof. For example, when reordering photographs, many photographers request a reference number that has been printed on the back of proofs for the customer's and the photographer's convenience. Printing a reference number on the proof itself facilitates faster future reference to a proof-related file. Goldstein's customers can reenter their wallpaper files at a later date; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Goldstein's printing unit to print an indicia including information regarding said proof for future reference and reorder in order to facilitate faster future reference to a proof-related file.

[Claims 13, 14] Goldstein prints wallpaper samples with adhesive backings (¶ 38), yet Goldstein does not expressly teach that the printing unit prints a final product with simulated texture or a metallic foil product. However, Official Notice is taken that the

sale of wallpaper with simulated texture or a metallic foil product are old and well-known in the art. A wide variety of wallpaper is available in the market to please all of the varying tastes of wallpaper consumers. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Goldstein's printing unit to print a final product with simulated texture (claim 13) or a metallic foil product (claim 14) in order to better please all of the varying tastes of wallpaper consumers.

9. Claims 19-22, 24, 26, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (US 2002/0069078), as applied to claims 1, 18, and 25 above, in view of Plaskoff et al. (US 2001/0032062).

Goldstein assists a user in planning a home remodeling project; however, Goldstein does not expressly teach the details of related project management, as recited in claims 19-22, 24, 26, and 43. Plaskoff discloses a system with an application module, schedule coordination means, and a database for managing a renovation project online:

[Claim 19] wherein said application module allows calculation of total cost for a project, including cost for material and labor therefor (¶¶ 63, 69-72 -- The contractor provides an estimate for the full cost of the job based on materials, upgrades, etc. selected by the user. Inherent to a contractor estimating the full cost of a job is an estimate of the cost of material and labor);

[Claim 20] wherein said application module provides automatic scheduling adjustment in response to a change in said project (§§ 103, 116 -- The customer specifies a start time in the contract with the contractor. Once both parties agree to the contract, it is implied that the contractor agrees to the specified start date. However, "revised time estimates can automatically be calculated and guaranteed according to a list of time requirements for specific lists of tasks and services." This means that there is a timeline of when various tasks need to be accomplished and rescheduling automatically occurs when at least one task is delayed);

[Claim 21] wherein said application module provides automatic cost adjustment in response to a change in said project (§§ 63, 69-72);

[Claim 22] wherein said application module provides a heuristic suggestion algorithm for providing refined suggestions to said customer (§§ 86-88, 92);

[Claim 24] means for coordinating schedule of said customer with availability date of materials and schedule of an installer (§§ 103, 116 -- The customer specifies a start time in the contract with the contractor. Once both parties agree to the contract, it is implied that the contractor agrees to the specified start date. However, "revised time estimates can automatically be calculated and guaranteed according to a list of time requirements for specific lists of tasks and services." This means that there is a timeline of when various tasks need to be accomplished and rescheduling automatically occurs when at least one task is delayed);

[Claim 26] wherein said interactive module prompts said customer for relevant information and based on provided information outputs suitable choices for said customer (¶¶ 86-88, 92);

[Claim 43] wherein said database includes times for completion of various construction tasks (¶¶ 103, 116 -- The customer specifies a start time in the contract with the contractor. Once both parties agree to the contract, it is implied that the contractor agrees to the specified start date. However, "revised time estimates can automatically be calculated and guaranteed according to a list of time requirements for specific lists of tasks and services." This means that there is a timeline of when various tasks need to be accomplished and rescheduling automatically occurs when at least one task is delayed).

Goldstein sells wallpaper, thereby implying that those customers buying this wallpaper are performing home/office decoration and/or renovation projects. Plaskoff provides a medium for assisting Goldstein's customers in actually installing the purchased wallpaper as part of a decoration/renovation project. Further Plaskoff aims to fully automate the home renovation process in order to reduce the amount of time and effort normally required for a customer to physically meet with a contractor, pick out project designs, make various decisions regarding the designs, work out a contract, etc. (¶ 6). In other words, Plaskoff's invention is directly beneficial to completing the types of decoration/renovation projects disclosed by Goldstein (e.g., wallpapering a room); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Goldstein to perform the steps

recited in claims 19-22, 24, 26, and 43 in order to fully automate the home renovation process in order to reduce the amount of time and effort normally required for a customer to physically meet with a contractor, pick out project designs, make various decisions regarding the designs, work out a contract, etc. (as taught by Plaskoff).

10. Claims 27, 28, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (US 2002/0069078), as applied to claim 1 above, in view of Heisler et al. (US 2001/0044749).

Goldstein discloses a wallpaper ordering assistance system, yet Goldstein does not expressly teach the various instruction and help modules recited in claims 27, 28, 30, and 31. Heisler makes up for these deficiencies with the teaching of a home improvement system (including wallpapering projects, ¶¶ 18, 32) comprising:

[Claim 27] means for generating instructions for installing a product selected by said customer (¶¶ 21, 32, 38);

[Claim 28] means for generating instructions for tool and accessory requirement for a product selected by said customer (¶¶ 21, 32, 38);

[Claim 30] at least one help module for providing helpful suggestions to said customer based on customer selections (¶¶ 21, 32, 38);

[Claim 31] at least one help module for providing a help list to said customer based on customer selections (¶¶ 21, 32, 38).

Heisler's invention provides "weekend warriors" (i.e., those who perform home improvements on their own) with a tool for more accurately planning and understanding

what is involved (e.g., time, materials, and tools) in performing a desired home improvement project, thereby reducing time spent trying to fix glitches and running back and forth from the local hardware store (¶¶ 5-8). It is old and well-known that wallpapering a room in one's house is a common "weekend warrior" (i.e., do-it-yourself) project. Goldstein's invention is directed toward the sale of wallpaper; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Goldstein's invention to incorporate the various instruction and help modules recited in claims 27, 28, 30, and 31 in order to provide "weekend warriors" (i.e., those who perform home improvements on their own) with a tool for more accurately planning and understanding what is involved (e.g., time, materials, and tools) in performing a desired home improvement project (e.g., wallpapering), thereby reducing time spent trying to fix glitches and running back and forth from the local hardware store, as taught by Heisler.

11. Claims 32-34, 37-40, 42, 44, 45, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (US 2002/0069078), as applied to claims 1 and 57 above, in view of Fenton et al. (U.S. Patent No. 6,343,264).

Goldstein discloses a wallpaper ordering assistance system, yet Goldstein does not expressly teach modules that assist in color matching, as recited in claims 32-34, 37-40, 42, 44, 45, and 59. Fenton, on the other hand, teaches "an improved color selection process for assisting customers when shopping for floor, wall, or window coverings" (abstract). In particular, Fenton discloses:



[Claim 33] wherein said decorator module comprises:

a digital camera for capturing an image of said customer location (col. 8, lines 45-49); and

a computer for displaying said image and manipulating said image (col. 8, lines 45-62);

[Claim 34] wherein said customer will be able to preview said at least one selected product in an image of said customer location captured by said digital camera (col. 8, line 22 through col. 10, line 8);

[Claim 37] wherein said database allows custom mixing of colors (columns 2-10);

[Claim 38] wherein said database allows custom matching of colors of various products (columns 2-10);

[Claim 39] wherein said database allows color matching to existing paint (columns 2-10);

[Claim 40] wherein said database allows color matching to selected wallcovering not yet installed (col. 2, lines 60-63 -- The fact that a customer can select matching wall coverings implies that the matched wall coverings have not yet been installed);

[Claim 44] means for coordinating and evaluating color matching of various products, including wall covering, floor covering, paint, appliances and window treatments (col. 2, lines 60-63; col. 3, lines 10-15; col. 5, lines 52-59; col. 7, lines 45-54; col. 8, lines 23-28; col. 9, lines 12-55; col. 10, lines 1-8);

[Claim 59] means for matching said at least one selected product to other products (col. 2, lines 60-63; col. 3, lines 10-15; col. 5, lines 52-59; col. 7, lines 45-54; col. 8, lines 23-28; col. 9, lines 12-55; col. 10, lines 1-8).

Fenton sets forth to provide "an improved color selection process for assisting customers when shopping for floor, wall, or window coverings" (col. 1, lines 65-67) by enabling more accurate and convenient automated color matching for a wide range of products spanning the inventory of various vendors. As stated by Fenton, "These items, taken in combination, constitute a unique and extremely powerful selling and purchasing advance in the industry" (col. 2, lines 8-10). Goldstein provides a wallpaper vending system that assists customers in selecting standard or custom-made wallpaper designs. Clearly, both Fenton and Goldstein strive to guide a customer through the home improvement process more easily; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement the digital image and color matching features of Fenton with Goldstein's invention in order to enhance Fenton by allowing a customer to more effectively select a wallpaper that matches the color scheme of the customer's floors, window coverings, and appliances utilizing the methodology recited in claims 33, 34, 37-40, 44, and 59, further enabling more accurate and convenient automated color matching for a wide range of products spanning the inventory of various vendors (as taught by Fenton).

Furthermore, as per claim 32, neither Goldstein nor Fenton expressly teaches where the decorator module to be used by a decorator is located. Goldstein allows a customer to e-mail a wallpaper file to a design consultant (¶ 37) and Fenton sends the

designer or other staff member to a customer's house to take digital photographs on-site (col. 8, lines 46-54). Further, Official Notice is taken that it is old and well-known in the art for a decorator to make decorating decisions on-site in order to take advantage of measurements, color assessments, etc. that can be evaluated immediately and in the true light of the site. If a decorator returns to the office to make decorating decisions, it is possible that he/she may have forgotten to make certain observations or take measurements that would be useful in making a final decorating recommendation, thereby requiring the decorator to expend more time returning to the decorating site to gather previously forgotten data. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Goldstein to incorporate a decorator module for providing access to a decorator and enabling said decorator to use said system at a customer location (claim 32) in order to promote more immediate decorating decisions on-site without requiring a decorator to waste time returning to the decorating site to gather previously forgotten data. Furthermore, this practice provides customers with the old and well-known convenience of not having to travel far for a consultation appointment.

As per claim 42, Goldstein provides customers with samples of selected wallpaper. Fenton allows a customer to select from a list of floor, window, and/or wall coverings sold by various vendors (col. 2, lines 1-4, 60-63) while coordinating these selections with paint colors, carpet texture, fabric samples, furniture pillows, cupboards, etc. (col. 3, lines 10-16; col. 5, lines 52-59; col. 7, line 50; col. 9). Goldstein and Fenton do not expressly state that they take into account appliance styles and colors, draperies,

blinds and accessories, doors, trims, lumber varieties, and lighting fixtures *per se*. However, Fenton clearly tries to match various aspects of a customer's house when creating an optimal color scheme and Official Notice is taken that it is old and well-known in the art of decorating to take into account appliance styles and colors, draperies, blinds and accessories, doors, trims, lumber varieties, and lighting fixtures when designing a decorating scheme. Generally speaking, the more facets of one's house that are taken into account when designing a decorating scheme, the more likely it is that one's entire house will look like a decorator's paradise (i.e., the decorating scheme throughout the house will come together nicely). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the database of the Goldstein-Fenton combination such that said database comprises various data, lists, and samples of wallpaper, paint colors, appliance styles and colors, floor covering, draperies, blinds and accessories, windows, doors, trim, lumber varieties, and lighting fixtures (claim 42) in order to increase the likelihood that the customer's entire house will look like a decorator's paradise (i.e., the decorating scheme throughout the house will come together nicely).

Regarding claim 45, as discussed above, the Goldstein-Fenton combination yields a system for digitally matching colors of various products; however, there is no explicit mention in either reference directed toward digitally matching colors after passing of time *per se*. Official Notice is taken that it is old and well-known in the art of color matching to take into account the effect of the passing of time on colors when performing color matching. This practice gives a customer greater assurance that not

only will a color scheme meet his/her expectations in the near future, but in the distance one as well. The Goldstein-Fenton combination effectively markets a home improvement system with color matching capabilities; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate with the Goldstein-Fenton combination means for digitally matching color of various products after passing of time (claim 45) in order to give a customer greater assurance that not only will a color scheme meet his/her expectations in the near future, but in the distance one as well.

12. Claims 46-52 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (US 2002/0069078), as applied to claims 1 and 57 above, in view of Herz et al. (US 2001/0014868).

Goldstein discloses a kiosk at which customers may view, create, and order wallpaper. Goldstein does not expressly teach the details of tracking customer behavior and targeting advertisements accordingly; however, Herz discloses a shopping system in which customer behavior is tracked and products may be targeted and purchased, [Claim 46] wherein said system has capability of running advertisements (abstract; ¶ 5); [Claim 47] wherein said advertisements are based on customer viewing behavior (abstract; ¶¶ 3, 38-46); [Claim 48] means for capturing customer preferences during customer previewing of a product (abstract; ¶¶ 3, 38-46, 112-137);

[Claim 50] a kiosk located remotely in a retail store and having access to said system for said customer to access said personal file (§§ 21, 22, 26, 27);

[Claim 52] wherein said advertisements are based on customer viewing behavior (abstract; §§ 3, 38-46).

Herz states, "This invention relates to a system for the automatic determination of which products a shopper would be most likely to buy, and what prices and promotions (coupons, advertisements) a vendor should offer the shopper in order to maximize the vendor's profits" (§ 2). Goldstein, too, is directed toward a system that markets products, such as wallpaper, to customers at a kiosk in a retail environment. Presumably, Goldstein's vendors desire to sell customers as much wallpaper as possible in order to maximize their profits. Herz's invention makes the tools for maximizing sales available to any vendors marketing their products through a terminal, such as a kiosk; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement the profiling, marketing, and advertising strategies recited in claims 46-48, 50, and 52 with Goldstein's kiosk system in order to reap the benefits of "the automatic determination of which products a shopper would be most likely to buy, and what prices and promotions (coupons, advertisements) a vendor should offer the shopper in order to maximize the vendor's profits," as taught by Herz (§ 2).

Furthermore, regarding claim 49, Herz discloses means for capturing customer purchases for record keeping (abstract; §§ 3, 38-46, 112-137) and Herz makes record of offers made to customers, including coupons with unique identifiers and codes for

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later redemption of the offers made in the coupons (§§ 38, 39, 282, 283). Herz does not expressly teach that the customer purchase data is captured for subsequent reordering *per se*. However, the customer is provided with an initial chance to take advantage of the offer. The coupon avails a subsequent opportunity for the customer to order the offered product at a later point in time. Similarly, when a product is reordered, the product is ordered, albeit a second or third time, at a later point in time. In other words, Herz teaches the structure and functionality required for storing product order information that is to be acted upon later for ordering. A reorder utilizes the same methodology in the sense that previously stored product information is accessed for the purpose of placing an order. As a matter of fact, Herz explicitly states that "if the shopper returns with the coupon, the vendor is spared the computation of re-selecting the most appropriate offer" (§ 38). The same benefit is likewise gleaned when conducting a reorder by accessing stored purchase data, i.e., the vendor (or customer for that matter) need not exert extra effort in identifying a product already proven to be of interest to the customer. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with the Goldstein-Herz combination means for capturing customer purchases for record keeping and subsequent reordering (claim 49) in order to facilitate future purchase of a previously purchased product, thereby minimizing the effort normally required in remembering or researching which product has already been identified as being of interest to a customer.

Regarding claims 51 and 58, neither Goldstein nor Herz expressly discloses a kiosk with the capability of running advertisements during idle time; however, Official Notice is taken that it is old and well-known in the art of advertising to program kiosk displays to run advertisements during idle time. This practice helps to attract the attention of passers-by, especially when the kiosk is available for use. The vendors who participate in Goldstein and Herz's kiosk sales systems benefit more when more customers use the kiosks and purchase their goods; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to endow the kiosks in the Goldstein-Herz combination with the capability of running advertisements during idle time (as per claims 51 and 58) in order to attract more customers to the kiosks, thereby improving the advertised vendors' likelihood of generating profits.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

**Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

or faxed to:


<b>(703)305-7687</b>	[Official communications; including After Final communications labeled "Box AF"]
<b>(703)746-7048</b>	[Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

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Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7<sup>th</sup> floor receptionist.

A handwritten signature in cursive script, reading "Susanna Diaz".

Susanna M. Diaz  
Primary Examiner  
Art Unit 3623  
July 6, 2004